



February 14, 2007

SENATE BILL No. 158

DIGEST OF SB 158 (Updated February 12, 2007 7:52 pm - DI 113)

Citations Affected: IC 15-4.

Synopsis: Corn checkoffs. Makes changes to the corn marketing law. Provides that thirty percent (30%) of the money in the corn market development account may be used for promotion of the corn industry for grants recommended by the department of agriculture and the economic development corporation. The council may spend money for economic development of the corn industry in addition to the thirty percent (30%) used for grants recommended by the department of agriculture and the economic development corporation. Provides that a producer has 180 days to claim a refund. Provides for an annual audit of the corn marketing council (council). Requires the council to have an annual audit. Provides that the council may audit first purchasers. Specifies that if the corn marketing council requires an audit, the council must pay for the audit. Provides that if the council establishes ad hoc committees, the committees must include representatives of first purchasers. Provides for a referendum to be conducted on the corn marketing program every five years.

Effective: July 1, 2007.

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January 11, 2007, read first time and referred to Committee on Economic Development and Technology.
February 13, 2007, amended, reported favorably — Do Pass.

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SB 158—LS 6965/DI 14+



February 14, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 158

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-4-10-2.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 2.5. As used in this chapter, "consumer information"**
4 **means information that will assist consumers and other persons in**
5 **making evaluations and decisions regarding the:**

- 6 (1) **purchase;**
7 (2) **preparation; and**
8 (3) **use;**

9 **of corn or corn products.**

10 SECTION 2. IC 15-4-10-6 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. **(a)** As used in this
12 chapter, "first purchaser" means a person who is engaged in Indiana in
13 the business of buying grain from producers. **The term refers to a**
14 **person buying or otherwise acquiring corn from:**

- 15 (1) **the producer of the corn; or**
16 (2) **the Commodity Credit Corporation, if the corn is pledged**
17 **as collateral for a loan issued under a price support loan**

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program administered by the Commodity Credit Corporation.

(b) The term does not include a buyer of grain who buys less than fifty thousand (50,000) bushels of grain annually for the buyer's own use as seed or feed.

SECTION 3. IC 15-4-10-6.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 6.7. As used in this chapter, "industry information" means:**

(1) information and programs that lead to the development of new markets, new marketing strategies, or increased efficiency for; and

(2) activities to enhance the image of; the corn industry.

SECTION 4. IC 15-4-10-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. As used in this chapter, "marketing year" means the twelve (12) month period beginning ~~September~~ October 1 and ending the following ~~August 31~~ September 30.**

SECTION 5. IC 15-4-10-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8.5. As used in this chapter, "net market price" means the sale price received by a producer for corn after adjustments for any premium or discount based on grading or quality factors.**

SECTION 6. IC 15-4-10-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 10.5. (a) As used in this chapter, "promotion" means any action, including:**

- (1) paid advertising;
- (2) technical assistance; and
- (3) trade marketing activities;

to enhance the image or desirability of corn or corn products in domestic and foreign markets.

(b) The term also means any activity designed to communicate to:

- (1) consumers;
- (2) importers;
- (3) processors;
- (4) wholesalers;
- (5) retailers; and
- (6) government officials;

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1 **other information relating to the positive attributes or the benefits**
 2 **of importation, use, or distribution of corn and corn products.**

3 SECTION 7. IC 15-4-10-10.7 IS ADDED TO THE INDIANA
 4 CODE AS A NEW SECTION TO READ AS FOLLOWS
 5 [EFFECTIVE JULY 1, 2007]: **Sec. 10.7. As used in this chapter,**
 6 **"research" means any type of study to advance the:**

- 7 (1) **image;**
- 8 (2) **desirability;**
- 9 (3) **marketability;**
- 10 (4) **production;**
- 11 (5) **product development;**
- 12 (6) **quality; or**
- 13 (7) **functional or nutritional value;**

14 **of corn or corn products, including any research activity designed**
 15 **to identify and analyze barriers to export sales of corn or corn**
 16 **products.**

17 SECTION 8. IC 15-4-10-14 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) If an elected
 19 member of the council ceases to meet one (1) or more of the
 20 qualifications set forth in section 12(b) of this chapter, the member's
 21 term of office terminates and the member's office becomes vacant.

22 (b) When an elected council member's office becomes vacant before
 23 the expiration of the member's term of office, the council shall fill the
 24 vacancy by appointing a replacement member who meets the
 25 qualifications set forth in section 12(b) of this chapter. The appointee
 26 shall serve for the remainder of the unexpired term.

27 ~~(c) When the office of a council member appointed under section~~
 28 ~~16(c) of this chapter to represent first purchaser organizations becomes~~
 29 ~~vacant before the expiration of the member's term of office, the director~~
 30 ~~shall fill the vacancy by appointing a replacement member who~~
 31 ~~represents a first purchaser organization. The appointee shall serve for~~
 32 ~~the remainder of the unexpired term.~~

33 ~~(d)~~ (c) When an appointed council member's office representing the
 34 senate becomes vacant before the expiration of the member's term of
 35 office, the president pro tempore of the senate shall fill the vacancy by
 36 appointing a replacement member who represents the senate and is a
 37 member of the same political party as the appointed council member
 38 who vacated the office. When an appointed council member's office
 39 representing the house of representatives becomes vacant before the
 40 expiration of the member's term of office, the speaker of the house of
 41 representatives shall fill the vacancy by appointing a replacement
 42 member who represents the house of representatives and is a member

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of the same political party as the appointed council member who vacated the office. An appointee under this subsection shall serve for the remainder of the unexpired term.

SECTION 9. IC 15-4-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council. ~~but these individuals~~

(b) At least one (1) individual appointed under this section must represent first purchasers.

(c) An individual appointed under this section:

- (1) may not participate in votes taken by the council; and**
- (2) is eligible for reimbursement for traveling expenses and other expenses actually incurred in connection with the individual's duties as allowed under section 12(d) of this chapter.**

SECTION 10. IC 15-4-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, Dekalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

~~DISTRICT 10. All counties in Indiana.~~

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(b) The dean of the school of agriculture at Purdue University or the dean's designee shall serve as an ex officio member of the council.

~~(c) The director shall appoint two (2) representatives of first purchaser organizations to serve as members of the council.~~

(c) Six (6) council members shall be elected to represent all counties in Indiana.

(d) The president pro tempore of the senate shall appoint one (1) member of the senate to serve as a member of the council. The speaker of the house of representatives shall appoint one (1) member of the house of representatives to serve as a member of the council. The members appointed under this subsection are ex officio members of the council. These appointed members shall at all times be members of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council. ~~upon approval of the director.~~

SECTION 11. IC 15-4-10-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. An election of a council member shall be held in a district in the year in which the term of the district's council member is to expire. ~~Between April~~ **January** 1 and ~~April~~ **March** 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

SECTION 12. IC 15-4-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) The ballot for the election of a district council member must bear the name of each producer who:

(1) meets the qualifications set forth in section 12(b) of this chapter; and

(2) files with the ~~director~~, **council**, before June 16 of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The ~~director~~ **council** shall provide petition forms upon request and shall make forms available at cooperative extension service offices, ~~located in the district.~~ **through electronic means, or through any other means specified by the council.** The ~~director shall determine the position of names on the ballot by drawing lots and shall provide the producers who have qualified to have their names on the ballot with advance notice of the time and place of the drawing.~~ **must reflect the order in which petitions are received by the council.**

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(c) No names other than the names of the producers who have qualified under this subsection may be printed on the ballot by the ~~director~~ **council**. A name may not be written in on the ballot by a producer.

SECTION 13. IC 15-4-10-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. (a) For ~~the~~ purposes of the election of a district council member, the ~~director~~ **council** shall provide an absentee ballot to every producer who:

- (1) resides outside Indiana or expects to be absent from the district in which the producer resides on the day of the election;
- (2) requests an absentee ballot from the ~~director~~ **council** no more than thirty (30) days before the election; and
- (3) files with the ~~director~~ **council** a notarized affidavit swearing or affirming that the producer is eligible to vote in the election.

(b) A producer's absentee ballot is not valid unless the ~~director~~ **council** receives the ballot and the affidavit from the producer at least two (2) working days before the election.

SECTION 14. IC 15-4-10-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. The election of a district council member shall be conducted by the council in August:

- (1) at voting places located within the district; **or**
- (2) **by any other reasonable manner as determined by the council.**

The winner of an election takes office on the following ~~September~~ **October 1**.

SECTION 15. IC 15-4-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. ~~(a)~~ The council shall do the following:

- (1) Elect a ~~chairman, vice chairman, president, vice president,~~ secretary, treasurer, and other officers the council considers necessary.
- (2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.
- (3) Bond the treasurer and such other persons as necessary to ensure adequate protection of funds received and administered by the council.
- (4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.
- (5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.
- (6) Annually publish an activities ~~and financial~~ report **and audit**

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and present ~~this~~ **the report and audit** to the director of the department of agriculture.

(7) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(8) Formulate and execute assessment procedures and methods of collection.

(9) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

(10) Adopt bylaws and operating procedures governing operations of the council.

(11) Keep accurate accounts of all receipts and disbursements of funds handled by the council and have the receipts and disbursements audited annually by a qualified public accountant.

~~(10)~~ **(12)** Take any other action necessary for the proper implementation of this chapter.

~~(b) Seven~~ **(7)** affirmative votes are required for the council to take action.

SECTION 16. IC 15-4-10-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. The council shall meet at least ~~once in each of the following periods:~~

~~(1) January, February, and March;~~

~~(2) April, May, and June;~~

~~(3) July, August, and September;~~

~~(4) October, November, and December;~~

three (3) times in each marketing year at the call of the president or at the request of two-thirds (2/3) of the members of the council.

SECTION 17. IC 15-4-10-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

(b) The council may invest all money it receives under this chapter, including ~~assessments, gifts, and grants;~~ **any gifts or grants that are given for the express purpose of implementing this chapter,** in ~~any~~ **the same** way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for the purpose of market development, **promotion, research, industry information, and consumer information.**

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of

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1 this chapter.

2 SECTION 18. IC 15-4-10-24.5 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24.5. (a) The Indiana
4 corn market development account is established within the state
5 general fund for the purpose of ~~market development~~; **implementing**
6 **this chapter**. The account shall be administered by the council. The
7 account consists of:

- 8 (1) assessments the council receives under this chapter;
- 9 (2) gifts; and
- 10 (3) grants.

11 (b) The expenses of administering this chapter shall be paid from
12 money in the account. ~~If the balance of the account is not more than~~
13 ~~five hundred thousand dollars (\$500,000) in a fiscal year, the council~~
14 ~~may expend not more than twenty-five percent (25%) of the balance for~~
15 ~~administrative expenses. If the account has a balance of more than five~~
16 ~~hundred thousand dollars (\$500,000) in a fiscal year, the council may~~
17 ~~spend an additional amount of not more than ten percent (10%) of the~~
18 ~~balance over five hundred thousand dollars (\$500,000) for~~
19 ~~administrative expenses.~~

20 (c) The treasurer of state shall invest the money in the account not
21 currently needed to meet the obligations of the account in the same
22 manner as other public money may be invested. Interest that accrues
23 from these investments shall be deposited in the account.

24 (d) Money in the account at the end of a state fiscal year does not
25 revert to the state general fund.

26 (e) Money in the account is continually appropriated to the council
27 for purposes of this chapter.

28 SECTION 19. IC 15-4-10-24.6 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2007]: Sec. 24.6. (a) **An amount not to exceed**
31 **thirty percent (30%) of the money collected by the Indiana corn**
32 **marketing council under section 26 of this chapter may be used to**
33 **provide economic development incentive grants recommended by**
34 **the department of agriculture and the Indiana economic**
35 **development corporation to businesses that use corn. A grant made**
36 **under this section must be approved by a majority of the members**
37 **of the council.**

38 (b) **The council may choose to spend money for economic**
39 **development grants in addition to the money used for economic**
40 **development under subsection (a).**

41 SECTION 20. IC 15-4-10-25 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 25. (a) Obligations

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incurred by the council and other liabilities and claims against the council may be enforced only against the assets of the council in the same manner as if it were a corporation. No liabilities for the debts or actions of the council may arise against:

- (1) the state;
- (2) any political subdivision (as defined in IC 34-6-2-110); or
- (3) any member, officer, employee, or agent of the council in an individual capacity.

(b) The members and employees of the council may not be held responsible individually in any way to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, or employee, except for their own individual acts that result in the violation of any law.

(c) No employee **or contractor** of the council may be held responsible individually for ~~the any~~ act or omission of ~~any the council~~ **or a** member of the council.

(d) Any liability of the members of the council is several and not joint. A member of the council may not be held liable for the default of any other member.

SECTION 21. IC 15-4-10-26, AS AMENDED BY P.L.1-2006, SECTION 247, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 26. (a) An assessment of one-half cent (\$0.005) per bushel ~~is permitted~~ **shall be collected** on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once and shall be collected by the first purchaser. ~~if the producer exercises the option under subsection (b) to be included in the assessment. An assessment shall not be conducted on the producer without the producer's written consent.~~ The rate of the assessment imposed by this section may be ~~increased~~ **changed** only by the general assembly.

(b) In conjunction with the producer's first settlement with the first purchaser following June 30, 2001, the first purchaser shall make available to the producer the forms granting the producer the option to be included in the assessment and inform the producer of the option to be included. If the producer desires to be included in the assessment, the producer shall complete and sign a form, in writing, indicating the producer's desire to be included in the assessment permitted by subsection (a). It is a producer's obligation to return enrollment forms to a first purchaser. The first purchaser shall keep a record of each producer's desire to be included in the assessment, as indicated on the completed forms. Forms completed by a producer shall remain in effect until repealed in writing by the producer and delivered to the first

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1 purchaser. The initial enrollment by producers who want to participate
 2 in the corn marketing program must occur from July 1, 2001, through
 3 August 31, 2001. Corn market development assessments collected by
 4 a first purchaser begin on September 15, 2001. A change in
 5 participation by a producer to be included in the assessment or to
 6 discontinue the assessment does not take effect until July 1 following
 7 the producer's election to change. The department of agriculture shall
 8 prescribe the forms to be used under this subsection and distribute the
 9 forms to the first purchaser prior to July 1, 2001. The council shall
 10 reimburse the department of agriculture for the costs of preparation and
 11 distribution of the forms required by this subsection from the funds the
 12 council receives under this chapter. Auditing fees collected from this
 13 program and all other programs by the Indiana grain buyers and
 14 warehouse licensing agency revert to the office of agriculture account
 15 to cover administrative costs.

16 (c) If the producer indicates the desire to be included in the
 17 assessment permitted under subsection (a) by following the procedure
 18 described in subsection (b), (b) The first purchaser of a quantity of corn
 19 shall deduct the assessment on the corn from the sum of money to be
 20 paid to the producer based on the sale of the corn. A first purchaser
 21 shall accumulate assessments collected under this subsection
 22 throughout each of the following periods:

- 23 (1) January, February, and March.
- 24 (2) April, May, and June.
- 25 (3) July, August, and September.
- 26 (4) October, November, and December.

27 ~~(d)~~ (c) At the end of each period, the first purchaser shall remit to
 28 the council all assessments collected during the period. A first
 29 purchaser who remits all assessments collected during a period within
 30 fifteen ~~(15)~~ thirty (30) days after the end of the period is entitled to
 31 retain three percent (3%) of the total of the assessments as a handling
 32 fee.

33 SECTION 22. IC 15-4-10-26.5 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2007]: **Sec. 26.5. (a) If a producer has sold**
 36 **corn and the state assessment was deducted from the sale price of**
 37 **the corn, the producer may secure a refund equal to the amount**
 38 **deducted upon filing a written application.**

39 (b) A producer's application for a refund under this section
 40 must be made to the council within one hundred eighty (180) days
 41 after the state assessment is deducted from the sale price of the
 42 producer's corn.

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(c) The council shall provide application forms to a first purchaser for purposes of this section upon request. The first purchaser shall make an application form available to each producer who requests an application form.

(d) Proof that an assessment has been deducted from the sale price of the producer's corn must be attached to each application for a refund submitted under this section by a producer. The proof that an assessment was deducted may be in the form of a duplicate or certified copy of the purchase invoice or settlement sheet from the first purchaser.

(e) If a refund is due under this section, the council shall remit the refund to the producer not later than thirty (30) days after the date the producer's application is received.

SECTION 23. IC 15-4-10-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) A first purchaser shall keep detailed records of all assessments collected and remitted under this chapter for at least five (5) years.

(b) Upon request, a first purchaser shall supply the council with any information from records kept under subsection (a).

(c) The council may periodically audit a first purchaser's checkoff assessment and remittance records as kept under subsection (a). An audit must be conducted by a qualified public accountant of the council's choosing, and the costs of the audit shall be paid by the council.

SECTION 24. IC 15-4-10-30 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 30. (a) If a first purchaser fails to remit the assessments collected during a period defined in section 26 of this chapter within ~~forty-five (45)~~ thirty (30) days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

- (1) the status and amount of the assessments due; and
- (2) any reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

- (1) ~~shall~~ may adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate; ~~and~~
- (2) may assess a penalty against the first purchaser; ~~of no more than ten percent (10%) of the amount of any assessments not remitted within forty-five (45) days after the end of the period.~~

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1 **(3) shall:**

2 **(A) assess a fee for an unpaid assessment due the council,**
 3 **from a person responsible for remitting assessments, at the**
 4 **rate of two percent (2%) of the amount of the unpaid**
 5 **assessment each month, beginning with the day following**
 6 **the date the assessment was due under this subsection; and**
 7 **(B) if there is any remaining amount due after the**
 8 **assessment of the fee under clause (A), assess a fee at the**
 9 **same rate on the corresponding day of each month**
 10 **thereafter until the entire amount of the unpaid assessment**
 11 **is paid;**

12 **(4) shall compute the amounts payable on unpaid assessments**
 13 **under this section monthly and include any unpaid late**
 14 **charges previously applied under this section; and**

15 **(5) shall determine the date of a payment for purposes of this**
 16 **subsection by the postmark applied to the remitting envelope.**

17 (c) If a first purchaser fails to remit assessments after being allowed
 18 to present comments under subsection (a) or to pay any penalty
 19 assessed under subsection (b), the council may bring a civil action
 20 against the first purchaser in the circuit, superior, or municipal court of
 21 any county. The action shall be tried and a judgment rendered as in any
 22 other proceeding for the collection of a debt. In an action under this
 23 subsection, the council may obtain:

24 (1) a judgment in the amount of all unremitted assessments and
 25 any unpaid penalty; and

26 (2) an award of the costs of bringing the action.

27 SECTION 25. IC 15-4-10-32 IS ADDED TO THE INDIANA
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2007]: **Sec. 32. (a) Proceeds of the checkoff**
 30 **assessment collected by the council under this chapter may not be**
 31 **used to influence legislation or governmental action or policy.**

32 **(b) Proceeds of the assessment collected under this chapter may**
 33 **be used to communicate information relating to the:**

34 (1) conduct;

35 (2) implementation; or

36 (3) results;

37 **of promotion, research, consumer information, or industry**
 38 **information activities to appropriate government officials.**

39 **(c) Proceeds of the assessment collected under this chapter may**
 40 **be used for action designed to market corn or corn products**
 41 **directly to a foreign government or a political subdivision of a**
 42 **foreign government.**

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1 SECTION 26. IC 15-4-10-33 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) On August 1, 2011, and
 4 not later than every five (5) years thereafter, the director of the
 5 department of agriculture shall conduct a referendum among corn
 6 producers who, during a period determined by the director of the
 7 department of agriculture, have been engaged in the production of
 8 corn. The purpose of the referendum is to determine whether the
 9 corn check off program should be continued or discontinued. The
 10 director of the department of agriculture shall develop criteria for
 11 the conduct of referenda.

12 (b) The director shall, to the extent practicable, provide broad
 13 public notice in advance of any referendum. Notice shall be given
 14 by means determined appropriate by the director of the
 15 department of agriculture.

16 (c) The director of the department of agriculture shall report
 17 the results of the referendum to the legislative council. The report
 18 must be in an electronic format under IC 5-14-6. If a majority of
 19 the producers voting in the referendum want the program to be
 20 discontinued, the director of the department of agriculture shall
 21 request that the legislative council have legislation prepared to
 22 repeal the corn market law.

23 (d) The director of the department of agriculture must be
 24 reimbursed from the Indiana corn market development account
 25 for any expenses incurred in connection with the conduct of a
 26 referendum.

27 (e) A referendum shall be conducted for a reasonable period
 28 established by the director of the department of agriculture, not to
 29 exceed three (3) days, under a procedure whereby a producer
 30 intending to vote in the referendum must certify that the producer
 31 was engaged in the production of corn during the period
 32 established by the director of the department of agriculture.

33 (f) Referenda shall be conducted at county extension offices. The
 34 director of the department of agriculture shall make provisions for
 35 absentee mail ballots to be provided on request. Absentee mail
 36 ballots shall be furnished by the director of the department of
 37 agriculture on request made in person, by mail, or by telephone.

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COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred Senate Bill No. 158, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture.

Page 2, line 32, delete "servicing" and insert "**marketing**".

Page 3, delete lines 17 through 38.

Page 4, between lines 25 and 26, begin a new paragraph and insert:
 "SECTION 9. IC 15-4-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. **(a)** When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special expertise concerning that industry to participate in the work of the council. ~~but these individuals~~

(b) At least one (1) individual appointed under this section must represent first purchasers.

(c) An individual appointed under this section:

(1) may not participate in votes taken by the council; and

(2) is eligible for reimbursement for traveling expenses and other expenses actually incurred in connection with the individual's duties as allowed under section 12(d) of this chapter."

Page 5, reset in roman lines 9 through 10.

Page 5, line 13, delete "(b)" and insert "**(c)**".

Page 5, line 15, reset in roman "(d)".

Page 5, line 15, delete "(c)".

Page 7, line 8, strike "and financial".

Page 7, line 8, after "report" insert "**and audit**".

Page 7, line 9, strike "this" and insert "**the**".

Page 7, line 9, after "report" insert "**and audit**".

Page 7, line 9, delete "." and insert "**of the department of agriculture**".

Page 7, between lines 18 and 19, begin a new line block indented and insert:

"(11) Keep accurate accounts of all receipts and disbursements of funds handled by the council and have the receipts and disbursements audited annually by a qualified public accountant."

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Page 7, line 19, delete "(11)" and insert "(12)".

Page 7, line 30, delete "." and insert **"or at the request of two-thirds (2/3) of the members of the council."**

Page 8, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 19. IC 15-4-10-24.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24.6. (a) An amount not to exceed thirty percent (30%) of the money collected by the Indiana corn marketing council under section 26 of this chapter may be used to provide economic development incentive grants recommended by the department of agriculture and the Indiana economic development corporation to businesses that use corn. A grant made under this section must be approved by a majority of the members of the council.

(b) The council may choose to spend money for economic development grants in addition to the money used for economic development under subsection (a)."

Page 9, line 12, reset in roman "cent (\$0.005)".

Page 9, line 12, delete "of one percent (0.5%) of the net market price".

Page 11, between lines 9 and 10, begin a new paragraph and insert:

"(c) The council may periodically audit a first purchaser's checkoff assessment and remittance records as kept under subsection (a). An audit must be conducted by a qualified public accountant of the council's choosing, and the costs of the audit shall be paid by the council."

Page 12, delete lines 28 through 42, begin a new paragraph and insert:

"SECTION 26. IC 15-4-10-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) On August 1, 2011, and not later than every five (5) years thereafter, the director of the department of agriculture shall conduct a referendum among corn producers who, during a period determined by the director of the department of agriculture, have been engaged in the production of corn. The purpose of the referendum is to determine whether the corn check off program should be continued or discontinued. The director of the department of agriculture shall develop criteria for the conduct of referenda.

(b) The director shall, to the extent practicable, provide broad public notice in advance of any referendum. Notice shall be given by means determined appropriate by the director of the

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department of agriculture.

(c) The director of the department of agriculture shall report the results of the referendum to the legislative council. The report must be in an electronic format under IC 5-14-6. If a majority of the producers voting in the referendum want the program to be discontinued, the director of the department of agriculture shall request that the legislative council have legislation prepared to repeal the corn market law.

(d) The director of the department of agriculture must be reimbursed from the Indiana corn market development account for any expenses incurred in connection with the conduct of a referendum.

(e) A referendum shall be conducted for a reasonable period established by the director of the department of agriculture, not to exceed three (3) days, under a procedure whereby a producer intending to vote in the referendum must certify that the producer was engaged in the production of corn during the period established by the director of the department of agriculture.

(f) Referenda shall be conducted at county extension offices. The director of the department of agriculture shall make provisions for absentee mail ballots to be provided on request. Absentee mail ballots shall be furnished by the director of the department of agriculture on request made in person, by mail, or by telephone."

Delete page 13.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 158 as introduced.)

FORD, Chairperson

Committee Vote: Yeas 9, Nays 1.

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